

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

AMERICAN COUNCIL OF THE)
BLIND OF INDIANA, et. al,)
)
 Plaintiffs,)
)
 v.) No. 1:20-cv-3118-JMS-MJD
)
)
INDIANA ELECTION COMMISSION,)
et. al.)
)
 Defendants.)

DEFENDANTS' SUBMISSION OF DATA ORDERED BY THE COURT

Defendants, by counsel, pursuant to the Court's amended preliminary injunction order [Filing No. 106], submit the following data in connection with the May 3, 2022, primary election:

- How many voters—and specifically, how many voters with print disabilities— completed the absentee ballot application and registration form contemplated by Senate Enrolled Act (“SEA”) 398 and the statutory scheme for absentee voting established by Indiana Code § 3-11-4-6 (“the UOCAVA Scheme”)

Answer: 674 individuals completed the voters with print disabilities combined voter registration and absentee ballot application (ABS-VPD)

- How many voters with print disabilities were successfully registered and approved to vote absentee under SEA 398 and the UOCAVA Scheme

Answer: 13 voters attesting to print disabilities were registered and approved by county election officials to vote absentee at

home prior to Indiana's 2022 primary election under the accommodations created by SEA 398.

Comment 1: Overall, voter participation in the 2022 primary election was exceptionally low at 14%. <https://enr.indianavoters.in.gov/site/index.html>

Comment 2: Indiana's voter-registration deadline for the primary election was April 4, 2022. The ABS-VPD form went live online on April 21, 2022, after the registration deadline had passed (though the paper version of the ABS-VPD form had been available for a few months).

Comment 3: Of the 674 individuals who submitted the ABS-VPD form, 329 were new registrations and thus could not register since the registration deadline had already passed. The remaining 345 were already-registered voters. Of those 345 registered voters, 13 applications were approved, and 90 applications were received after 6:00 p.m. (eastern time) on Election Day, which is both the deadline to submit an ABS-VPD application to receive a ballot by fax or email and the deadline to return a ballot by fax or email requested via ABS-VPD.

Comment 4: There are several statutory reasons that may explain why the remaining 242 registered-voter applicants were not approved: First, although the deadline for requesting and returning a ballot by email or fax was 6:00 p.m. (prevailing local time) on May 3, 2022, the deadline for requesting a ballot by regular mail was 11:59 p.m. (prevailing local time) on April 21, 2022, so applications requesting the ballot by regular mail submitted on April 22 or later should have been denied. Second, 301 already-registered voters who submitted timely requests for absentee ballots also sought to update their registrations, but only some registration updates may be made after the registration deadline passes (e.g., a move within a voting precinct). And third, county election officials would have to determine that an applicant satisfies the eligibility criteria for being a print-disabled voter before approving the application.

- How many accessible ballots were sent out to voters with print disabilities

Answer: According to the data available to the Election Division, absentee ballots were sent to 13 voters.

Comment: Per the voters' requests, 10 ballots were sent to the voter via email, and three were sent to the voter via regular mail.

- How many accessible ballots were:

- started,

- completed,
- accepted and counted, and
- rejected

Answer: 13 ballots were sent to voters attesting to having print disabilities. Two were completed, returned by Election Day, accepted, and counted. Per the voters' requests, one ballot was sent by email and one was sent by regular mail. The remaining 11 ballots were not received back by county election officials.

Comment: As of now, the defendants have no way of determining why those ballots were not received by the counties. One of those voters decided to vote in-person on Election Day. It is unclear whether the other 10 similarly voted in-person on Election Day because that information is not yet fully available because state law gives counties 60 days following Election Day to update the statewide voter registration system (SVRS) with vote history, and it has been less than 60 days since May 3, 2022. Moreover, two counties—Hamilton and Marion Counties—are currently in the midst of recounts, which further delays SVRS data entry by county election officials. The defendants also have no way to determine the number of ballots that were “started” by the voter but not completed because that action takes place without any supervision by county election officials.

Respectfully submitted,

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